

REMARKS

Reconsideration is requested for claims 1-16, 20-22 and 25.

Claims 17-19 have been allowed.

Claim 25 was rejected under 35 U.S.C. 112, first paragraph, on the grounds that the specification lacks proper written description pertaining to the compression forces and how they are increased and/or decreased during use. Claim 25 recites that, in the collapsible structure as set forth in claim 1, when the at least two struts are in the expanded position, compression forces in the at least two locking struts increase as they are moved toward a line extending through the connection points at the second ends of the at least two locking struts from a position on a distal side of the line from the first hub and compression forces in the at least two locking struts decrease as they are moved away from the line to a locked position on a same side of the line as the first hub.

Previously, it was argued that the subject matter of claim 25 is fully supported by the original disclosure at, e.g., paragraphs [0021]-[0022], and that, while the language in the specification is not identical to the language in the claims, persons skilled in the art would have understood the disclosure to support the claim language.

It is now further argued that the subject matter recited in claim 25 is supported by the original disclosure by virtue of the fact that the subject matter recited in claim 25 is inherent in the disclosure at, e.g., paragraphs [0021]-[0022]. To satisfy the written description requirement, "the missing descriptive matter must necessarily be present in the [original] application's specification such that one skilled in the art would recognize such a disclosure." *Tronzo v. Biomet, Inc.*, 156 F.3d 1154, 1159 (Fed. Cir. 1998). It is submitted that, inherently, when "the

locking struts 33a and 33b pass through the plane defined by the connection points 35a and 35b, even though the combined length of the locking struts is greater than the distance between the connection points”, as described in paragraph [0021], the locking struts will be placed in compression as they move toward the plane, and the compression forces will be relieved as they move away from the plane. If it is not believed to be inherent that struts that are pinned at one end to each other and, at their opposite ends, to points that disposed at a lesser distance than the combined length of the struts, will be placed in compression as the struts are forced toward a plane in which the points lie, and that the compression will be relieved as the struts are moved away from the plane, or that one skilled in the art would recognize these facts, it is requested that a more detailed explanation be provided regarding what precisely is considered to be lacking from the disclosure.

In view of the foregoing, withdrawal of the rejection of clai 25 under 35 U.S.C. 112, first paragraph, is cordially urged.

Claims 1-16, 20-22, and 25 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,193,414 to *Trochman* in view of U.S. Patent Application Publication No. 2003/0164185 to *Price* in view of U.S. Patent No. 5,274,980 to *Zeigler*. Claim 1, from which claims 2-16, 20-22, and 25 depend, defines a structure that offers advantages including permitting easy locking of the structure in an erected condition and easy collapsing of the structure by means of the specially configuration including locking struts.

As previously discussed, the struts 21a and 22b in *Trochman* are not pivotably connected at second ends thereof to the struts 21b and 22a as recited in claim 1 but, rather, at centerpoints thereof.

It is now understood that the Official Action maintains that it would have been obvious to modify *Trochman* in view of *Zeigler* '980, which shows two struts pivotably attached to a single strut (e.g., FIG. 3A). It was asserted that one skilled in the art would have modified the single locking strut of *Trochman* in view of *Zeigler* '980 because the modification would facilitate replacement/repair of one strut without significantly weakening the structure thereby preventing failure.

It is respectfully submitted that this is not a valid reason for the asserted modification as the resulting structure would be significantly weakened by removal/repair of a strut. If one of the struts 21a or 22b were removed from the illustrated arch, the arch would have no integrity and would collapse. The same would be the case if the struts 21a and 22b were split into two pairs of struts pinned to the centerpoints 31 of the struts 21b and 22a, respectively. If one of the segments of strut 21a or 22b between the centerpoint 31 connection and the end connection 30 were removed, the arch would have substantially no integrity (it would have only the structural integrity provided by two struts that are free to pivot relative to each other, i.e., substantially none) and would collapse.

If it is meant by the comment that the structure would not be significantly weakened when one of the segments is removed because *Trochman* discloses a series of arches connected together, and, even if one of the segments were removed from one of the arches, the structure would still be sufficiently supported by the other arches, again, that does not provide a reason for replacing one of the struts 21a or 22b with two pairs of strut segments. This is because removal of a complete strut 21a or 22b or a strut segment from one of a plurality of arches would have the

same effect. The one arch would be substantially worthless while the strut or strut segment was removed, and the structure would be supported by the remaining arches.

In view of the foregoing, it is respectfully submitted that the Official Action has not set forth a valid reason for the asserted modification.

In view of the differences between claim 1 and *Trochmann* in view of *Price* and *Zeigler* '980, and further in view of the advantages available through the structure defined by claim 1, it is respectfully submitted that claim 1 and the claims dependent therefrom define patentably over the applied documents.

Claims dependent from claim 1 define over the applied documents for additional reasons. For example, claim 25 recites that when the at least two struts are in the expanded position, compression forces in the at least two locking struts increase as they are moved toward a line extending through the connection points at the second ends of the at least two locking struts from a position on a distal side of the line from the first hub and compression forces in the at least two locking struts decrease as they are moved away from the line to a locked position on a same side of the line as the first hub. None of the applied documents disclose or suggest such an arrangement. *Zeigler* '980 does not disclose an arrangement whereby strut segments will be placed in compression as they are moved toward a plane. Claim 25 defines patentably over the applied documents for at least the foregoing additional reason.

It is respectfully submitted that all of the rejected claims, claims 1-16, 20-22 and 25, claims 17-19 having been allowed, are in condition for allowance. Allowance is cordially urged.

To the extent that the applicant does not respond to a particular comment in the Official Action, the applicant does not intend by this to indicate acquiescence in or agreement with the

comment. To the extent that any extensions of time are necessary in connection with this application it is requested that there be a standing petition for extension of time and that any additional fees that are required, or refunds due, in connection with this or any other paper filed in connection with this application be charged to Deposit Account 503015.

If the Examiner is of the opinion that a telephone conference would be helpful in resolving any outstanding issues, the Examiner is urged to contact the undersigned.

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Respectfully submitted,

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